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ABSTRACT

The opinions of representatives of 108 western colleges and universities concerning federal regulations in general, and Department of Education regulations in particular, were surveyed. The following areas of federal regulation appear to be of greatest concern to the western colleges and universities: student assistance, especially Pell Grants and National Direct Student Loans; veteran's cost-of-instruction payments, especially the provisions for computing allowances three times a year; cooperative education, especially the regulations pertaining to the number of job placements required; civil rights/affirmative action/equal employment opportunity, including the multiple and cross-cutting enforcement efforts, duplicative data gathering requirements, and lack of definitive interpretations of key regulations; programs for the handicapped, especially the seeming overreliance on renovating existing facilities and lack of federal funding to finance the tasks; Vocational Education Data System, such as the complexity and unreliability of the quantitative data being requested; disposal of hazardous wastes, especially those regulations that do not differentiate between small-scale users and large industrial producers; financial accountability, particularly the time and effort reporting requirements of OMB Circular A-21; and Internal Revenue Service requirements, especially those related to ERISA regulations and those that do not conform to accepted nonprofit accounting conventions. Information was also obtained on graduate support, institutional assistance, library resources, teacher training, and health and safety. (SW)

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WICHE
Improving Education in The West

WICHE, the Western Interstate Commission for Higher Education, is a nonprofit regional organization. It helps the thirteen member states to work together to provide high-quality, cost-effective programs to meet the education and manpower needs of the West. Member states are Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

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Introduction

This report was prepared by the staff of the Western Interstate Commission for Higher Education based on the written responses of 108 institutions of higher education in the thirteen states that are covered by the Western Regional Education Compact (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming). Phillip L. Sirotkin, WICHE's executive director, requested the chief executive officer of each institution or multi-campus system (a similar request was sent to the head of each statewide governing or coordinating board) to respond to three questions about federal regulations in general, and Department of Education regulations in particular. The three questions are summarized below (a copy of the request letter appears in Appendix A):

1. Which, if any, federal regulations does your institution find inappropriate, unduly burdensome, or impossible to comply with? Insofar as possible, please cite each regulation by title.

2. In each case cited above, please state specifically your criticism of the regulation and what measures should be taken to improve it.

3. Which regulations should be abolished and why (i.e., those with no social utility whatsoever)?

The request explained that the WICHE staff would tabulate and analyze the responses to focus attention clearly on (1) specific regulations, and (2) whether certain regulations appear to have a disproportionate impact on certain classes of institutions (e.g., two-year, four-year, public, private).

Response Rate -- In reply to the approximately 525 letters requesting comments and criticisms of federal regulations, WICHE received 108 written responses from western colleges and universities. Although this report should not be construed as an attempt to generalize on behalf of all institutions, the responses appear to come from a cross section of institutions. The table below presents a summary of the number of respondents by state, institutional level, and control. (An alphabetical list of respondents appears in Appendix B.)

State	2-year Public	2-year Private	4-year Public	4-year Private	Total
Alaska	--	--	--	1	1
Arizona	1	1	2	1	5
California	23	--	11	18	52
Colorado	3	--	3	1	7
Hawaii	--	--	--	2	2
Idaho	--	--	2	--	2
Montana	--	--	2	--	2
Nevada	--	--	2	--	2
New Mexico	--	--	2	1	3
Oregon	6	--	5	4	15
Utah	--	--	2	--	2
Washington	6	--	3	3	12
Wyoming	2	--	1	--	3
Total	41	1	35	31	108

Again, it is worth noting that this report is based on the responses that were received and that it does not attempt to speculate on the comments (or lack thereof) of the institutions that did not supply information.

Scope and Organization -- This report will attempt to synthesize the information received from western colleges and universities. In so doing the report will draw attention to general concerns as well as to specific regulations that require reevaluation. The report will begin with a brief condensation of what appear to be the most salient concerns expressed by colleges and universities. The report will then cover in more detail the general concerns regarding federal regulation and the specific areas of Department of Education activities. The report will conclude with a review of comments, frequently numerous, that refer to activities of other agencies and departments. The categories that this report uses to organize the information presented are as follows:

I. General Concerns Applicable to All Regulations

II. Student Assistance

III. Graduate Support

IV. Institutional Assistance

V. Library Resources

VI. Teacher Training

VII. Civil Rights/Affirmative Action/Equal Employment Opportunity

VIII. Programs for the Handicapped

IX. Activities Related Agencies: NCES, NIE, FIPSE

X. Vocational Education

XI. Other Education Department Programs

XII. Research and Development

XIII. Health and Safety

XIV. Financial Accountability

Although the comments that we received under these last three categories apply largely to regulations promulgated by other agencies of government, they have a decisive effect on colleges and universities that relates directly to their ability to participate effectively in and to carry out federal programs.

A number of institutions offered very specific and technical recommendations, while others were more general. In addition to the institutions cited in the discussion of specific regulations, the following institutions have offered reasonably comprehensive comments on various sections and subsections of education regulations, which Department officials should review carefully:

Pasadena City College (California)
San Francisco State University (California)
University of California-Irvine
Community College of Denver (Colorado)
University of Southern Colorado
Idaho State University
New Mexico State University
Clackamas Community College (Oregon)
Southern Oregon State College
University of Utah
Clark College (Washington)
Shoreline Community College (Washington)
Washington State University

Several institutions enclosed copies of letters or reports that were compiled by other agencies. (See Biola College, California Institute of Technology, University of Utah.)

Two institutions submitted documents that were prepared as part of earlier studies of the impact of federal regulations on higher education institutions. These documents are enclosed. (See University of California-Berkeley, Oregon State University.)

Summary of Major Concerns

Based on the information received from western colleges and universities, the following areas of federal regulation appear to be of greatest concern to western colleges and universities:

-- Student assistance, especially Pell Grants and National Direct Student Loans.

-- Veteran's cost-of-instruction payments, especially the provisions for computing allowances three times a year.

-- Cooperative education, especially the regulations pertaining to the number of job placements required.

-- Civil rights/affirmative action/equal employment opportunity, especially the multiple and cross-cutting enforcement efforts, duplicative data gathering requirements, and lack of definitive interpretations of key regulations.

-- Programs for the handicapped, especially the seeming overreliance on renovating existing facilities and lack of federal funding to finance the tasks.

-- Vocational Education Data System, especially the complexity and unreliability of the quantitative data being requested.

-- Disposal of hazardous wastes, especially those regulations that do not differentiate between small-scale users and large industrial producers.

-- Financial accountability, especially the time and effort reporting requirements of OMB Circular A-21.

-- Internal Revenue Service requirements, especially those related to ERISA regulations and those that do not conform to accepted nonprofit accounting conventions.

I. General Concerns Applicable to All Regulations

The first general area of concern expressed by colleges and universities in the West arises specifically from their geographic distance from Washington, D.C., and the consequent effects of that distance on them in the rule-making process. Specifically, a number of institutions noted that because correspondence to institutions or notices in the Federal Register are printed and mailed in one batch, institutions in the West tend to receive notices much later than their eastern counterparts because of the postal system. They suggest that mailings of important notices and of the Federal Register be staggered so that delivery will occur on the same day throughout the nation.

A second general point is related to the first. A number of institutions have noted that the length of time allowed for comment on proposed regulations is, in many cases, too short. Further, these short deadlines are compromised by postal delays. Most critical, it appears, is the reported tendency of the Department of Education to promulgate final regulations before the expiration of the period set aside for comments. This suggests to a number of institutions that the Department is not serious in its solicitation of comments, suggestions, or criticisms concerning regulations.

Another set of general concerns stems from the multitude of forms, schedules, assurances, etc., that institutions are required to submit for each program in which they participate. These forms are often redundant in purpose, yet so different in form that they pose an excessive burden on the institution. The principal areas in which this problem occurs are civil rights assurances and financial cost accounting. Many institutions suggest the adoption of a single assurance, made to a single agency in each area of concern (e.g., civil rights, financial accounting, etc.).

Many of the community or two-year colleges that responded offered the general complaint that rules, regulations, and procedures are developed with the model of the four-year college or university in mind. Consequently, where compliance with regulations might pose no problem for senior institutions, two-year colleges are often hard-pressed to comply.

II. Student Assistance

General -- Two comments stand out among the general comments on student assistance. First, that institutions cannot keep up with frequent changes in regulations, that these changes often are made after the fact, so that student awards must be recalculated. The suggested solution is to set programs to run for a number of years without major overhaul. Second, that there is a lack of agreement regarding important terms and definitions across the major federal programs. In the latter case, for example, Tacoma Community College cites the regulations for Guaranteed Student Loans, which include legal guardians under the definition of parent. Other student assistance programs use a different definition (i.e., Pell Grants, which specifically exclude guardians), thus creating confusion for the institution that must certify the application. At least five or six institutions recommended combining the various need-based grants into a single program to complement a single loan program.

Other problems cited include the following:

-- The formulas for allocation of campus-based funds to institutions. These formulas are said to ignore important variables such as socioeconomic status and unmet need. Many institutions would like to see a move from continuation guarantees to a "fair share" approach. (See Western New Mexico University, University of Portland, and Linn-Benton Community College.)

-- The need to recognize the capability of institutions to deal with federal regulations and for regulation writers to understand better the organizational constraints on institutions. (See University of California-Irvine.)

-- The overabundance of specific and detailed regulations for each program, rather than a set of general regulations for all student aid programs.

-- The handling of carry-over funds and new allocations for campus-based programs. Specifically, the pressure to spend all of a year's allotment in order to qualify for more aid the next year, which may lead to unbalanced aid packages.

-- A number of community colleges attested to the meaninglessness of the regulation that requires the institution to certify that a student receiving federal aid has an "ability to benefit from the education that he or she is to receive" (section 668.6 of the Student Assistance General Provisions). Institutions must act largely on faith, especially in "open door" institutions that are required by law or charter to accept all students. (See Santa Ana College, Pasadena City College, and Linn-Benton Community College.)

-- Many institutions cited unwieldy audit requirements. (See San Mateo County Community College District, St. John's College, College of the Desert, and University of Idaho.)

Pell Grants (BEOGs) -- Eighteen institutions made specific comments about the regulations governing the Pell Grant program. Six institutions singled out the award schedules that appear to disadvantage independent students residing off-campus while favoring students living on-campus. One institution supported the January 21, 1981, rule and regulation changes (paragraph 690.53) as offering a viable solution to this problem. (See Central Washington University.) Several institutions criticized the length of time required to process applications, which may inhibit students from enrolling for up to a year if their award comes very much later than the enrollment deadline. In addition, the March 15 application deadline may work against a student whose first term of enrollment is in the spring. A related problem involves the student who transfers in mid-year from a school having a semester calendar to a school having a quarter system. Under the current regulations, the award cannot be changed to adjust for the additional expenses required.

Other comments centered on the unwieldy audit requirements and the complex validation procedures contained in 45 CFR 190.12 and the definition of undergraduate (690.2).

Supplemental Educational Opportunity Grants (SEOGs) -- Twelve institutions commented on the regulations governing the operation of the Supplemental Educational Opportunity Grant program. Most of the institutions commented specifically in favor of the language in the Education Amendments of 1980 that no longer require the separation of initial and continuing year grants (sec. 413D(b)(3)). However, the regulations (676.18) still require a dual set of accounts for initial year and continuing year grants. New Mexico State University suggested that technical amendments be enacted to remove the additional record keeping that is no longer useful. (See New Mexico State University, Southern Oregon State College, Tacoma Community College, and Central Washington University.)

A second area of comment concerned the allowable transfer of up to 10 percent of funds between SEOG and the College Work-Study program (CW-S). Several institutions recommended that transfers up to 20 percent of funds be allowed.

One institution offered technical comments on section 676.9 of the regulations. (See Pasadena City College.) Another institution recommended that the regulation requiring SEOGs to be disbursed to students in equal dollar amounts each term be dropped to allow institutions to award additional supplemental grant funds if they become available late in the school year and student need still exists. (See Tacoma Community College.)

College Work-Study -- Eighteen institutions commented on the regulations pertaining to the College Work-Study (CW-S) program. These respondents indicated two areas of prime concern: (1) the tie-in with the federal minimum wage law, and (2) the requirements for student savings from full-time college work-study during vacation periods (45 CFR 175.25). In respect to the latter, several institutions noted that the student is required to save 60 percent of his summer CW-S earnings. The institutions believe that this requirement does not allow adequately for living expenses. They propose that reasonable living expense budgets be established and that the savings required come from sums earned above that standard. (See University of Idaho, University of San Diego.) With respect to the minimum wage, respondents noted that enactment of the new minimum wage effective on January 1 comes in the middle of the school year, after dollar awards are made to students. Conforming with the minimum wage law, the institutions assert, requires alteration of work schedules and changes in records for financial aid officers. Several institutions recommended a six-month grace period to allow a college to close out the award period before shifting to the higher rate. (See Adams State College, University of Southern Colorado, University of Arizona.)

Other comments dealt with the following concerns:

-- The requirement to monitor the student's outside earnings. (See New Mexico State University.)

-- The requirement to keep a written evaluation of the student's work performance was criticized as creating unnecessary paperwork, because one would assume performance is satisfactory or the student would not be retained. (See Occidental College.)

-- The delay caused by needs analysis processing, which hurts students' earning potential on campus.

-- The manner in which unexpended funds are handled at the end of the year. It was suggested that there be allowance made to carry funds forward.

National Direct Student Loans -- Twenty-one institutions commented on the regulations concerning National Direct Student Loans (NDSL). These comments centered on three main areas: (1) the new regulations governing grace periods; (2) the change in interest rates from 3 percent to 4 percent; and (3) problems with loan collections that may be worsened by increasing the length of time for loan repayment (up to 20 years) and of multiple deferment periods. The problem facing most colleges and universities is that the change in interest rates (3 percent to 4 percent) and grace periods (9 months to 6 months) will cause institutions to double their record-keeping efforts. Essentially, old NDSLs will have to be kept separate from new loans, which may mean setting up two billing cycles per student borrower. Two solutions have been suggested: first, allow combination of loans and averaging of interest rates using weighted averages; and second, implement a grandfather clause that allows current borrowers to continue under the previous loan provisions until they graduate and new borrowers (after July 1, 1981) to be covered by the new terms. (See Northern Arizona University, University of California-San Diego, California State University-Long Beach, Central Washington University, Cogswell College, and Adams State College.)

In addition, a number of institutions noted that the changes in the interest rate and grace period were applied retroactively for students who may have already signed promissory notes for funds for the academic year. One institution noted specifically that this practice violates acceptable standards of consumer practices. (See Central Washington University.)

Numerous respondents noted that the most recent changes in section 674.34 concerning deferment of repayment of loans made on or after October 1, 1980, which may extend the life of the loan, place increased burdens on the institutions to keep in contact with the borrower over long periods of time. This fact makes it extremely difficult for institutions to comply with the "due diligence" requirements of 44 CFR 157, section 174.42. (See Northern Arizona University, Northern Montana University, University of Southern Colorado, University of Arizona, Shoreline Community College, California State University-Long Beach.)

The following example, which illustrates these concerns, was submitted by Cogswell College to show what can happen to one student's account in applying these regulations regarding new grace periods and interest rates.

Loan No.	Date of Loan	Amount	Interest Rate	Grace Period	Deferment Regs.
1	9/15/80	$300.00	3%	9 months	674.3
2	10/5/80	300.00	3%	6 months	674.34a
3	7/15/81	300.00	4%	6 months	674.34a

This student's loan must be administered three different ways:

Loan No. 1: 9 months' due date after he/she leaves school; 3% interest rate; old deferment regulations apply; three contacts in grace period (674.43c)

Loan No. 2: 6 months' due date after he/she leaves school; 3% interest rate; new deferment regulations apply; two contacts into grace period (674.43(2))

Loan No. 3: 6 months' due date after he/she leaves school; 4% interest rate; new deferment regulations apply; two contacts in grace period.

Other comments centered on various aspects of the NDSL program and the regulations that govern it. One institution said the regulation requiring collection agencies to forward gross receipts and then be reimbursed required additional paperwork and accounting time. Another institution cited regulations 174.44, 174.45, and 174.46 (45 CFR) as creating inappropriate and burdensome billing, address search, and litigation procedures. The institution felt that the penalties imposed for an excessive default rate are stimulus enough to comply with the "due diligence" requirements.

Guaranteed Student Loans -- Seven institutions commented on the Guaranteed Student Loan program (GSL). Several institutions voiced support for proposals to make these awards need-based, or at least to impose an income ceiling. (See Mira Costa College and Los Angeles Valley College.) Three institutions noted that because checks may go directly from the lender to student, the institution is in no position to satisfy federal requirements for audit and control. (See St. John's College, University of Wyoming, and Adams State College.) One institution offered an in-depth analysis and critique of proposed changes that are under consideration at present. (See San Francisco State University.)

Special Programs for Students from Disadvantaged Backgrounds -- Three institutions commented on the regulations that govern the Talent Search, Upward Bound, and related efforts. One of these institutions enclosed a copy of an analysis previously forwarded to Mary Kathleen Smith of the Department of Education from the Association of Special Programs in Region Eight (ASPIRE). (See University of Utah.) Other comments received dealt with the following:

-- The income criteria used for student selection are too restrictive.

-- The regulations exclude all but "first generation" college students, which may overlook many needy students whose parents may have had some college education.

-- The regulation that prohibits combining the Trio Program with the Educational Opportunity Centers on a given campus, which would curtail extra administrative costs.

-- The regulations that require target areas in which at least 20 percent of resident families do not exceed poverty-level income. This requirement does not work well in sparsely populated areas where isolated pockets of poverty exist in reality, but not in statistical treatments.

(See University of Idaho and University of Nevada-Reno.)

III. Graduate Support

Six institutions commented on the various forms of support for graduate students. One institution mentioned that because graduate student support comes from numerous federal sources (e.g., ED, NSF, HHS, etc.), the number of regulations, guidelines, and forms differ from agency to agency. Although individually they are not cumbersome or inappropriate, they are extremely burdensome when overlaid. The clear recommendation is for increased interagency standardization. (See University of California-Irvine.)

Three institutions commented on various aspects of the Graduate/Professional Opportunities Program (G*POP). These comments centered on: (1) the minimum award ($75,000), which tends to eliminate smaller institutions; (2) the inability to allow students to change fields and continue fellowship support; and (3) the requirement to establish financial need, which is burdensome and counterproductive to supporting access by qualified minorities. (See University of Arizona, University of Utah, Central Washington University.)

Other comments criticized the timing of announcements and application dates, which come too late and are too short to aid effective recruitment.

IV. Institutional Assistance

Developing Institutions -- Four institutions offered comments on the regulations implementing Title III of the Higher Education Act (as amended). One comment on section 169.3 (45 CFR 169) argued that the present 76 percent to 24 percent split in allocations between four-year and two-year institutions inadequately reflects the importance of the community college in present-day postsecondary education. The institution argues further that the quantitative formulas used in section 169.17 discriminate against community colleges because they favor colleges with high percentages of full-time students.

Another criticism pertains to multiple reports, which would be better served by once-a-year reporting. A related comment dealt with unannounced

changes in audit requirements that leave the institution unprepared. Other comments urged the Department to be more expeditious in handling budget revisions and other changes in grants. One institution urged that the regulations be changed to allow funds to be used to develop an effective recruitment program. (See Community College of Denver, Sheldon Jackson College, Chaminade University of Honolulu, College of Osteopathic Medicine of the Pacific.)

Veteran's Cost-of-Instruction Payments -- Twenty institutions responded with comments on the Veteran's Cost-of-Instruction Payments program (VCIP). While most of the comments we received pertain to the regulations in 34 CFR 629, several institutions also referred to regulations issued by the Veterans Administration. In some cases the comments were so broad that it is not possible to determine the program to which they referred.

The regulation or procedure mentioned most frequently as being unduly burdensome is the requirement that cost-of-instruction allowances be computed three times a year. In addition to creating additional workload, several institutions noted that the earliest date, October 16, does not allow institutions to properly determine veteran status. A related problem is that the October date comes when institutions, in some cases, still allow students to add courses, thus affecting their count. The institutions favor a single reporting date to relieve the record keeping and accounting burden.

A second area of complaint was the inadequacy of the VCIP awards relative to the costs institutions incur to administer the program. Several institutions noted, too, that the compliance regulations are overly complex and that they often receive inadequate assistance from regional offices. Several institutions suggest that the Department require institutions to file a compliance plan rather than submit frequent detailed reports.

(See Community College of Denver, Los Angeles Valley College, University of Idaho, University of Utah, Riverside Community College District, Mt. San Antonio College, Hartnell College, Sheldon Jackson College, California State University-Stanislaus, Chaminade University of Honolulu, Clark College, New Mexico State University, Lane Community College, and Chabot College.)

Educational Opportunity Centers Program -- One comment was received relating to section 644.10(8) regarding the problems of student follow-up and efforts to improve student retention. Another comment pertained to the problems encountered in amassing and using demographic data in assessing the impact of the program as required in section 644.10(8)(d). (See Community College of Denver.)

College Housing Loans -- One institution noted that eligibility for this program penalizes small colleges. (See Graduate School of International Management.)

Cooperative Education -- Eight institutions cited the regulations on cooperative education; one institution had no comment or complaints. The principal concern stated revolved around the regulation that specifies that each student must have two placements. This regulation is especially hard to deal with.

for students who wish to enter cooperative education programs late in their academic careers. Several institutions noted that the proposed regulations call for four placements. Two-year institutions noted that students enrolled in programs of less than two years are ineligible for cooperative education. Several institutions noted that they are hampered by the requirement that all placements pay students. (See Clark College, Lane Community College, University of Southern Colorado, Pacific Lutheran University, University of Arizona, University of Denver, University of Idaho.)

V. Library Resources

College Library Resources -- Twelve institutions commented on resource development grants. Three areas of regulation under the program were criticized: (1) the reporting requirements and their basis on the federal fiscal year; (2) the definitions of acceptable resources that may be purchased; and (3) the constantly changing requirements for library data.

Virtually all the institutions commented on the problems caused for libraries to report based on the federal fiscal year (October-September). The paperwork and staff time required are out of proportion to the grant received. A number of institutions noted that the regulations do not recognize some of the newest and most useful library resources (i.e., electronic media, computer networks, etc.). Further, the regulations allow for the purchase of microforms, but not for the necessary readers. The institutions also noted the ever-changing reporting and record-keeping requirements, especially the maintenance of effort requirements in section 211(f)(2).

(See Loyola Marymount University, Occidental College, Los Rios Community College District, Sheldon Jackson College, Community College of Denver, University of Idaho, Cerritos Community College, Southern Oregon State College, and Central Washington University.)

VI. Teacher Training

Two institutions offered comments on the regulations implementing various programs authorized by Title V of the Higher Education Act (as amended). One institution found no problems with the regulations; the other institution cited in detail a number of regulations dealing with the election of community councils, project requirements for interns, and exclusion of experienced teachers. The specific regulations cited are as follows: 43 CFR 37 and 45 CFR 196. Specific paragraphs cited are: 172.14 and 172.81. (See Idaho State University.)

VII. Civil Rights/Affirmative Action/Equal Employment Opportunity

It is exceedingly difficult to separate activities and regulations of the Department of Education from those of other agencies. This is especially so because many of the comments relate to the overlapping jurisdictions involved, multiple and cross-cutting enforcement efforts, and general confusion surrounding the interpretation and enforcement of particular provisions such as Title IX. Twenty-five institutions offered comments on regulation and enforcement, which are reviewed below.

The single largest area of complaint is the enforcement process related to the various legislative acts and executive orders that deal with civil rights and nondiscrimination. Specifically, institutions cited the burdens imposed by multiple agency enforcement: numerous, duplicative reports; time-consuming investigations; inadequate lead time for an institution to respond to an inquiry; frequent changes in guidelines; full-scale investigations of complaints (requiring massive institutional responses) before they are validated; and federal investigators who have no sense of the differences between industrial organizations and institutions of higher education. Many of the institutions cited problems with the Office for Civil Rights, as well as with agencies in other departments (i.e., Office of Federal Contract Compliance, and the Equal Employment Opportunity Commission).

Specific recommendations include the centralization of oversight and enforcement in a single agency and the concomitant reduction in paperwork. Another recommendation is that institutions be allowed to file a single certification of nondiscrimination, rather than multiple certifications each time a project proposal is submitted.

Other comments dealt with the specific problems that institutions encounter in complying with the regulations emanating from Title IX (see Cerritos Community College District), and their alleged inapplicability to employment concerns. (See University of Utah.) Other comments noted that state and federal requirements often do not mesh.

Further detail on concerns with civil rights and affirmative action is provided by the responses from individual institutions:

California State University-Central Administration
California State University-Fresno
California State University-Long Beach
California State University-Pomona
Cerritos Community College District (California)
Clackamas Community College (Oregon)
Idaho State University
Loma Linda University (California)
Loyola Marymount University (California)
New Mexico State University
Pepperdine University (California)
San Francisco State University (California)
Santa Rosa Junior College (California)
Shoreline Community College (Washington)
University of California-Irvine
University of Colorado-Boulder
University of Montana
University of Nevada-Reno
University of Puget Sound (Washington)
University of Southern Colorado
University of Utah
Washington State University
Western State University College of Law (California)

VIII. Programs for the Handicapped

Over twenty institutions commented on the various programs and regulations that have resulted from the enactment of section 504 of the Rehabilitation Act of 1973. The comments touch on a number of issues related to compliance:

-- The enormous costs involved in renovating existing facilities and the lack of adequate federal funding to assist institutions.

-- The seemingly arbitrary and capricious deadlines for compliance.

-- The vague, shifting, and conflicting interpretations of the regulations.

-- The lack of regulatory basis for exemptions from the regulations for institutions that offer practical, creative efforts to achieve the desired end results.

-- The over-reliance on major remodeling to provide physical access instead of more immediate solutions such as rescheduling classes to buildings that are accessible.

-- The ambiguity over the requirements for providing auxiliary aids and the lack of protection for institutions that could be accomplished if students were required to give institutions advance notice if they will require these aids.

IX. National Center for Education Statistics

Most of the institutions that commented on the National Center for Education Statistics (NCES) addressed their comments to the Vocational Education Data System (VEDS). Because VEDS deals with vocational education data, the comments came largely from two-year colleges. The principal comments are as follows:

-- The large number of required data elements is unwieldy, too detailed, and difficult to maintain accurately.

-- The cost of operating the system is very high. One institution computed the cost at $6-$8 per student per year; another estimated the cost to be $12-$15. (See Chabot College, Shoreline Community College.)

-- The data being compiled do not accurately reflect the activities of the institutions.

-- The requirements for conducting leaver/completer follow-up studies in VEA 45 do not allow for students who "stop-in-and-out" while holding a job.

-- The amount of detail required on faculty and courses virtually precludes development of accurate automated systems. (See especially Shoreline Community College, Santa Ana College.)

(See also, Mt. San Antonio College, Los Rios Community College District, San Diego Community College, Community College of Denver, Cuesta College, Mt. Hood Community College, Clackamas Community College, Riverside Community College District, College of Alameda, Monterey Peninsula College, and Mt. San Jacinto College.)

Several institutions commented on the Higher Education General Information Survey (HEGIS), specifically mentioning the long time taken between data collection and publication and the discrepancies between HEGIS definitions and those used by other agencies (e.g., OCR, OMB, etc.). A more specific comment concerned HEGIS and OCR differences concerning the certifications required on the Fall Enrollment and Compliance Report (NCES Form 2300-2.3) and the forced allocation of missing data to cells in the report's matrix. This procedure requires an institution to certify the accuracy of data that is based on interpolation.

Several institutions supported the continued collection of data through HEGIS.

X. Vocational Education

All of the institutions commenting on the regulations covering vocational education were two- ear colleges. Most of the institutions noted that the regulations designate a large number of special target groups (low income, handicapped, etc.), which tends to reduce the institution's flexibility to design effective programs. Other institutions questioned the regulations requiring that only state-approved programs are eligible for funding. It was noted that programs may be accredited nationally in many cases where programs do not have specific state approval. Several institutions noted an excessive paperwork burden.

(See Columbia Basin College, Clark College, Lane Community College, Monterey Peninsula College, North Seattle Community College, Clackamas Community College, Cerritos Community College, Lake Tahoe Community College.)

XI. Other Department of Education Programs

Adult Education -- One institution pointed to a specific problem with the regulations implementing the Adult Education Act (P.L. 95-561). In section 303(2)(f) the definition of local education authority is given as a public board of education or other legal entity that controls elementary and secondary schools. This definition excludes community college boards or districts, which offer the bulk of adult education programs in many states. (See Clark College.)

Family Rights and Privacy Act -- Several institutions noted the burden on record keeping necessitated by the provisions of this act. (See New Mexico State University and Shoreline Community College.)

The sections that follow report on the comments received on regulations that are not administered by the Department of Education. It is hoped the Department will note these and bring them to the attention of officials in

appropriate departments and agencies. In some cases, the responding institutions found several of these regulations to be the most burdensome of those with which they must comply.

XII. Research and Development

Protection of Human Subjects -- Two institutions commented on the regulations affecting the use of human subjects in research. One institution cited the regulations in this area as a good example of positive and effective regulation that resulted in a reduction in paperwork and cumbersome procedures. Another institution noted the appropriateness of the regulations but sought federal assistance for review panels and other procedural safeguards. (See Northern Arizona University, Washington State University.)

Disposal of Hazardous Wastes -- Four institutions commented specifically on the Environmental Protection Agency's regulations governing the transportation and disposal of hazardous wastes. These institutions call specific attention to the regulations in 40 CFR 260-265, which deal with testing, labeling, storing, inventorying, and transporting hazardous waste materials. These comments point to the need for regulations that recognize the procedures for handling small quantities of materials as different from those that apply to large quantities. In addition, institutions questioned whether a campus is a single site or multiple sites for purposes of interpreting the regulations. (See University of Utah, University of California-Irvine, University of Colorado, California State University and Colleges.)

XIII. Health and Safety

A number of institutions noted the following problems with federal regulation in this area:

-- Regulations are written and enforcement based on an industrial model, which is burdensome when applied to an educational institution.

-- Regulations often conflict with state laws, which are sometimes more strict, thus causing compliance problems.

XIV. Financial Accountability

A large number of institutions offered comments on the different regulations regarding financial accountability and other regulations that govern the business and record-keeping requirements for colleges and universities. Again, these regulations are issued and enforced by many different agencies, which of itself imposes the burden of overlapping and conflicting reporting formats, dates, and definitions. In general, institutions point to the following problems:

-- Incompatible reporting formats and definitions across agencies that seek the same data.

-- Multiple representations and certifications that are required for each program.

-- Overlapping audits and audit requirements which often result in different sets of instructions to institutions.

-- Inconsistent requirements for record retention.

-- Double reporting on different forms (DFAFs and FSRs).

-- Slow paperwork processing by federal agencies and programs, delaying reimbursement of legitimate expenses and causing financial problems for institutions.

Turning to specifics, a large number of institutions criticized the time and effort reporting requirements contained in Office of Management and Budget (OMB) Circular A-21. Twenty institutions commented on A-21 and noted various aspects of the requirements:

-- time and effort reporting requirements that do not capture the realities of academic research performance

-- time and effort reporting requirements that must be applied to nonsponsored personnel

-- the exclusion of graduate student tuition remission from overhead costs, thus necessitating this item to be charged as a direct cost (This makes it less expensive to hire contract employees than to use graduate students in some cases.)

-- cost-sharing requirements that seem to conflict with Circular A-21, which calls for full reimbursement of indirect costs as computed.

(See University of California-Irvine, California State University-Long Beach, Central Washington University, University of Denver, Washington State University, Loma Linda University, University of Utah, University of Colorado, Portland State University, Pomona College, California State University-Fresno, University of Arizona, University of California-San Diego.)

Several private institutions noted that the Internal Revenue Service imposes burdensome reporting requirements by requiring the filing of Form 990 and Form 5500. Form 990, the comments assert, does not agree with recognized accounting standards (i.e., those agreed upon by NACUBO and AICPA) and is redundant of the HEGIS financial reports. Form 5500 is required by the 1974 ERISA regulations and necessitates the filing of multiple forms for each employee group covered by a variation on a basic plan. Institutions that use outside carriers, it is recommended, should be exempt from filing. (See University of Puget Sound, Pacific Lutheran University, and University of Portland.)

Small Business Investment Code (P.L. 95-507) -- Several institutions criticized both the burdensome requirements and the practical effect of these regulations. (See University of Utah and University of Wyoming.)

APPENDIX A

Request Letter

WICHE Western Interstate Commission for Higher Education
P.O. Drawer P Boulder, Colorado 80302
Telephone (303) 497-0200
Improving Education In The West

MEMORANDUM February 27, 1981

TO: Western States College and University Presidents

FROM: Phillip L. Sirotkin, Executive Director

SUBJECT: Federal Regulations Pertaining to Institutions of Higher Education

Secretary of Education, Terrel Bell, has requested the Western Interstate Commission for Higher Education to prepare an analysis of the problems that colleges and universities in the West encounter in dealing with federal regulations. In order to analyze the problems that are shared in common, as well as those that may be unique to only a limited segment of western institutions, I am requesting your help in preparing a response to Secretary Bell. Although his request pertains specifically to regulations issued by the Education Department, we would like to have you consider all federal regulations in your response.

Specifically, would you or qualified persons within your institution, respond in writing to the following points:

1. Which, if any, federal regulations does your institution find inappropriate, unduly burdensome, or impossible to comply with? Insofar as possible, please cite each regulation by title. In order to assist you, the attached sheet lists some broad headings under which you might group your response.

2. In each case cited above, please state specifically your criticism of the regulation and what measures should be taken to improve it.

3. Which regulations should be abolished and why (i.e., those with no social utility whatsoever)?

The staff of WICHE will tabulate and analyze the responses to focus attention clearly on (1) specific regulations and (2) to determine whether certain regulations appear to have a disproportionate impact on certain classes of institutions (e.g., two-year, four-year, public, private).

I hope that you will use this opportunity to influence the scope and direction of federal education policy. I will send the Secretary our analysis and a complete set of supporting original materials that we gather from the respondents to this request. You will receive a complete copy of our report.

Because of the urgency of the matter I hope that you will respond by March 21, 1981.

SUGGESTED CATEGORIES OF FEDERAL HIGHER EDUCATION REGULATIONS

(Note: These categories are meant to be suggestive, not exhaustive.)

I. Student Assistance

- A. Pell Grants (BEOGs)
- B. Supplemental Educational Opportunity Grants (SEOGs)
- C. College Work Study (CW-S)
- D. National Direct Student Loans (NDSL)
- E. Guaranteed Student Loans (GSL)
- F. Special Programs for Students from Disadvantaged Backgrounds (Trio)
  1. Talent Search
  2. Upward Bound
  3. Special Services for Disadvantaged Students
  4. Educational Opportunity Centers
- G. High School Equivalency Program
- H. College Assistance Migrant Program
- I. General provisions for campus administration of student aid programs

II. Graduate Support

- A. Graduate/Professional Opportunities Program (GPOP)
- B. Public Service Fellowships
- C. Mining Fellowships
- D. National Graduate Fellowships

III. Institutional Assistance

- A. Developing Institutions
- B. Minority Institutions Science Improvement
- C. International Education
- D. Cooperative Education
- E. Veterans Cost-of-Instruction Payments
- F. Construction Loan Subsidies
- G. College Housing Loans
- H. Architectural Barriers Removal

IV. Library Resources

- A. College Library Resources
- B. Research Library Resources
- C. Training and Remonstration
- D. Interlibrary Cooperation

V. Teacher Training

A. Teacher Centers
B. Teacher Corps
C. Teacher Fellowships
D. Precollege Science Teacher Training

VI. Civil Rights/Affirmative Action/Equal Employment Opportunity

A. Office for Civil Rights
B. Women's Educational Equity
C. Other

VII. Programs for the Handicapped

VIII. Divisions, Bureaus or Agencies

A. Fund for the Improvement of Postsecondary Education (FIPSE)
B. National Institute of Education (NIE)
C. National Center for Education Statistics (NCES)

IX. Vocational Education

X. Adult Education

XI. Land-Grant Colleges and Urban-Grant Universities

XII. Other Education Department Programs

XIII. Research and Development

XIV. Health and Safety

XV. Financial Accountability

APPENDIX B

Alphabetical List of Respondents

Appendix B

Alphabetical List of Respondents

Adams State College (Colorado)
American Graduate School of International Management (Arizona)
American River College (California)
Arizona Board of Regents
Biola College (California)
Brigham Young University-Hawaii Campus
California College of Arts and Crafts
California Institute of Technology
California State College-Stanislaus
California State Polytechnic University-Pomona
The California State University and Colleges
California State University-Fresno
California State University-Long Beach
Casper College (Wyoming)
Central Oregon Community College
Central Washington University
Cerritos Community College District (California)
Chabot College (California)
Chaminade University of Honolulu (Hawaii)
Clackamas Community College (Oregon)
Clark College (Washington)
Cogswell College (California)
College of Alameda (California)
College of the Desert (California)
The College of Ganado (Arizona)
College of Osteopathic Medicine of the Pacific (California)
Colorado State University
Columbia Basin College (Washington)
Community College of Denver (Colorado)
Cuesta College (California)

Hartnell College (California)
Harvey Mudd College (California)
Highline Community College (Washington)
Humboldt State University (California)
Idaho State University
John F. Kennedy University (California)
Judson Baptist College (Oregon)
Lake Tahoe Community College (California)
Lane Community College (Oregon)
Lassen Community College District (California)
Linn-Benton Community College (Oregon)
Loma Linda University (California)
Los Angeles Valley College (California)
Los Rios Community College District (California)
Loyola Marymount University (California)
Merritt College (California)
Mira Costa College (California)
Monterey Peninsula College (California)
Mt. Hood Community College (Oregon)
Mount St. Mary's College (California)
Mt. San Antonio College (California)
Mt. San Jacinto College (California)
New Mexico State University
North Seattle Community College (Washington)
Northeastern Junior College (Colorado)
Northern Arizona University
Northern Montana College
Occidental College (California)
Oregon Institute of Technology
Oregon State University
Pacific Lutheran University (Washington)
Pacific University (Oregon)
Pasadena City College (California)
Pepperdine University (California)

Pima County College (Arizona)
Pomona College (California)
Portland State University (Oregon)
Rancho Santiago Community College District (California)
Reedley College (California)
Riverside Community College District (California)
St. John's College (New Mexico)
The San Diego Community College District (California)
San Diego State University (California)
San Francisco State University (California)
San Mateo County Community College District (California)
Santa Ana College (California)
Santa Rosa Junior College (California)
Seattle University (Washington)
Sheldon Jackson College (Alaska)
Sheridan College (Wyoming)
Shoreline Community College (Washington)
Southern Oregon State College
Tacoma Community College (Washington)
Umpqua Community College (Oregon)
The University of Arizona
University of California-Berkeley
University of California-Davis
University of California-Irvine
University of California-San Diego
University of Colorado
University of Denver (Colorado)
University of Idaho
University of La Verne (California)
University of Montana
University of Nevada-Reno
University of Nevada System
University of Oregon
University of Portland (Oregon)
University of Puget Sound (Washington)

University of Redlands (California)
University of San Diego (California)
University of Southern California
University of Southern Colorado
The University of Utah
University of Washington
The University of Wyoming
Washington State University
Weber State College (Utah)
Western New Mexico University
Western State University College of Law (California)
Woodbury University (California)